**HIGH COURT OF UTTARANCHAL AT NAINITAL**

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. No. 150/2006 (S/S)

Har Singh Bisht

vs

The State of Uttaranchal
Through Secretary E.D.

Approved for reporting

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~~Not approved for reporting~~

Date of decision 16-2-2006

Initial of Judge

**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**

**Writ Petition No. 150 of 2006(S/S)**

Har Singh Bisht, S/o Late Sri Laxman Singh (missing) R/o Village Takulti, P/o Takulti (Dwarahat) District Almora, Uttaranchal.

**....Petitioner.**

Versus

1. The State of Uttaranchal through Secretary Education, Dehradun.
2. District Education Officer Almora.
3. District Basic Education Officer, Almora.

**.... Respondents.**

Sri B.S. Bisht, Lalit Tiwari, A.D. Tripathi, learned counsels for the petitioner.

Learned Standing counsel for respondents.

**HON'BLE RAJESH TANDON.J.**

**16.02.2006.**

Heard learned counsel for the parties. The learned counsel for the parties submitted that the writ petition may be disposed of at the admission stage directing the respondents to consider the representation of the petitioner dated June, 2003 as well as the application dated 31-12-97.

Briefly stated, the father of the petitioner late Sri laxman Singh Bisht who was Assistant Teacher in B.T.C. pay scale and was appointed on 29-10-1979. Late laxman Singh Bight was missing from 16-1-1991 and in accordance with the provisions of Indian Evidence Act his death was presumed after the expiry

of 7 years from the date of missing and the said report of the missing of Laxman Singh Bisht although was given to the Police Authorities on 10-8-91 but Late Laxman Singh Bight could not be traced out.

The widow of Late Laxman Singh Bisht has filed an application for appointment under Dying and Harness Rules on 31-12-97 but no orders were passed. The mother of the petitioner although from time to time has filed her representation but the same has not been disposed of. Petitioner has submitted that he has also filed an application for appointment under Dying and Harness Rules in the month of June 2003 to the District Education Officer. It is well settled that the application for appointment under Dying in Harness Rules has to be disposed of expeditiously in view of the judgment of the Apex Court reported in **Smt. Sushma Gosain and others Vs. Union of India and others (1989) 4 Supreme Court Cases 468.** The Apex Court has held as under :

*"9- We consider that it must be stated unequivocally that in all claims for appointment on compassionate grounds, there should not be any delay in appointment. The purpose of providing appointment*

*on compassionate ground is to mitigate the hardship due to death of the bread earned in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress. It is improper to keep such case pending for years. If there is no suitable post for appointment supernumerary post should be created to accommodate the applicant."*

The Division Bench of this Court in the matter of **Naresh Kumar versus Union of India and others** 2003 U.D., 167 has held as under:

*"The Apex Court in the case of State of U.P. and others Vs. Paras Nath A.I.R. 1998 SC Page 2612 in pare-5 has held as under:-*

*The purpose of providing employment to a dependent of a Government servant dying in harness in preference to anybody else, is to mitigate the hardship caused to the family of the employee on account of his unexpected death while still in service. To alleviate the distress of the family, such appointment are permissible on compassionate grounds provided there are Rules providing for such appointment. The purpose is to provide immediate financial assistance to the family of the deceased government servant.*

*In the case of Dhalla Ram Vs. Union of India AIR 1999 SC 564, the Hon'ble Supreme Court has held that appointment on compassionate ground is not a method of recruitment, but is a facility to provide for immediate rehabilitation to the family in distress for relieving the dependent family members of the deceased employee from destitution."*

The respondent no.2 is directed to dispose of the representation as well as applications filed by the petitioner in accordance with law under the Dying in Harness Rules within a period of three months from the date of filing of certified copy of this order.

Subject to the aforesaid observation the writ petition is disposed of. No order as to costs.

**(Rajesh Tandon.J)**

16.02.2006
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